



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

<b>IN THE MATTER OF:</b>	)	<b>COMPLIANCE AGREEMENT AND</b>
	)	<b>FINAL ORDER</b>
<b>Anderson Heating and Cooling</b>	)	
<b>102 Lincoln Avenue</b>	)	
<b>Murdo, South Dakota 57559</b>	)	
	)	
	)	
	)	
<b>Respondent.</b>	)	
_____	)	Docket No. <b>CAA-08-2004-0002</b>

**I. STATUTORY AUTHORITY**

1. This Compliance Agreement and Final Order (“CAFO”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 113 of the Clean Air Act (“CAA”), 42 U.S.C. § 7413, as amended on November 15, 1990, for violations of the “Stratospheric Ozone Protection” requirements of Section 608 of the CAA, 42 U.S.C. § 7671g, and the “Protection of Stratospheric Ozone” regulations found at 40 C.F.R. Part 82.

2. This CAFO is issued pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (b)(3), which pertain to the quick resolution and settlement of matters before the filing of a complaint.

3. Consistent with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), a copy of this CAFO will be sent to the South Dakota Department of Environment and Natural Resources.

## **II. FINDINGS**

### **A. Respondent.**

4. Respondent is Anderson Heating and Cooling, of Murdo, South Dakota.

5. At all times relevant to this action, Respondent's business involved repairing and/or servicing air conditioners. Respondent received payment for the repairs and services it performed.

6. At all times relevant to this action, Respondent was a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

7. Respondent consents to the jurisdiction of the Agency in this proceeding.

### **B. EPA Information Request**

8. On December 16, 2002, EPA sent Respondent a request for information pursuant to Section 114 of the Act.

9. On December 28, 2002, Respondent supplied the requested information in a letter. The letter provided records which show that Respondent vented regulated refrigerants to the atmosphere on three separate occasions, in May and June 2002. The letter also admits that Respondent was unaware of the requirement to certify acquisition of recovery equipment meeting federal rules.

**C. Servicing of Air Conditioners - Generally.**

10. Title VI of the CAA sets out requirements and prohibitions related to Stratospheric Ozone Protection. Section 608 of the CAA, 42 U.S.C. § 7671g, is contained within Title VI and sets forth requirements and prohibitions regarding the servicing of air conditioners. Section 608 is supported by regulations promulgated pursuant to the authorities set forth in that section.

**D. Venting Refrigerant During the Repairing and/or Servicing of Air Conditioners**

11. Under section 608(c) of the CAA, 42 U.S.C. § 7671g(c), no person repairing or servicing an air conditioner may release a Class I or Class II refrigerant from such air conditioner. The same prohibition appears in 40 C.F.R. § 82.154(a).

12. Class I and Class II substances are listed in 40 C.F.R. Part 82, Subpart A, Appendix A.

13. 40 C.F.R. Part 82, Subpart A, Appendix A lists CFC-12 as a Class I controlled substance.

14. In repairing and/or servicing the three air conditioners which contained CFC-12 and which are referenced in Paragraph 9 of this CAFO, Respondent did not properly use refrigerant recycling equipment as required by 40 C.F.R. § 82.156. Refrigerant recycling equipment approval is established in 40 C.F.R. § 82.158.

15. Respondent violated section 608(c) of the CAA, 42 U.S.C. § 7671g(c), and 40 C.F.R. § 82.154 by performing the repairs and/or services set forth in Paragraph 9 of this CAFO without properly using equipment approved pursuant to 40 C.F.R. § 82.158.

**E. Certification of Approved Refrigerant Recycling Equipment**

16. 40 C.F.R. § 82.154(e) provides that persons servicing or repairing air conditioners must certify to the Administrator that such person has acquired certified recovery or recycling equipment. The procedure for obtaining such certification is found at 40 C.F.R. § 82.162.

17. At all times relevant to this action, Respondent had not certified to the Administrator that it had acquired and was properly using approved refrigerant recycling equipment in service of air conditioners involving Class I or Class II refrigerant.

18. Respondent violated 40 C.F.R. § 82.154(e) by failing to certify to the Administrator that it had acquired and was properly using approved refrigerant recycling equipment.

**III. ORDER**

19. Based upon the foregoing FINDINGS, and pursuant to the authority vested in the Administrator of the EPA by section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ORDERED:

20. Respondent shall comply immediately with all the requirements of section 608 of the Act, 42 U.S.C. §§ 7671g, and 40 C.F.R. Part 82. If Respondent ceases servicing and repairing air conditioners, then it will be in compliance with this Order.

**IV. PENALTY**

21. Pursuant to section 113(d) of the CAA, 42 U.S.C. § 7413(d), Respondent has agreed to pay \$2000 in full satisfaction of the alleged violations. Payment of the penalty shall: (1) be made by certified or cashier's check payable to "Treasurer, United States of America;" (2) identify the case title and docket number of this action (either on the check or in a transmittal letter accompanying the check); and (3) be remitted to:

U.S. Environmental Protection Agency, Region 8  
Regional Hearing Clerk  
P.O. Box 360859M  
Pittsburgh, Pennsylvania 15251

A copy of the check shall be sent to:

Regional Hearing Clerk (8RC)  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

and to:

David Rochlin, Enforcement Attorney (8ENF-L)  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

22. Payment of the penalty in accordance with the procedures set forth in Paragraph 21 of this Complaint shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing in this matter.

23. Respondent shall pay the penalty with thirty (30) days after it receives the signed, final copy of this CAFO.

24. Respondent agrees not to claim a federal income tax deduction for all or any part of the penalty it is paying to the United States.

25. Neither the assessment nor the payment of an administrative penalty pursuant to section 113(d) of the CAA, 42 U.S.C. § 7413(d), shall affect Respondent's continuing obligation

to comply with the CAA or any other federal, state, or local laws or regulations and any compliance order issued under the CAA.

## **VI. EFFECTIVE DATE**

26. This CAFO shall become effective upon issuance by the Regional Judicial Officer.

Date: 11/19/03

**SIGNED**

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance,  
and Environmental Justice  
U.S. EPA, Region VIII  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

Date: 12/14,2003

**SIGNED**

Orville Anderson  
Anderson Heating and Cooling  
102 Lincoln Avenue  
Murdo, South Dakota 57559



## **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **COMPLIANCE AGREEMENT/FINAL ORDER** in the matter of **ANDERSON HEATING AND COOLING, DOCKET NO.: CAA-08-2004-0002** was filed with the Regional Hearing Clerk on January 7, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to David Rochlin, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on January 7, 2004, to:

Orville Anderson  
Anderson Heating and Cooling  
102 Lincoln Avenue  
Murdo, SD 57559

January 7, 2004

**SIGNED**

\_\_\_\_\_  
Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK ON  
JANUARY 7, 2004.**